

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio



United States of America  
v.  
Sergio PORTILLO ESPINOZA

Case No.

1:22mj341

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of June 7, 2022 in the county of Butler in the  
Southern District of Ohio, the defendant(s) violated:

Code Section

8 U.S.C. 1326(a)

Offense Description

On June 7, 2022, Sergio PORTILLO ESPINOZA an alien, was found in the the United States of American at or near West Chester, in the Southern District of Ohio, after having been previously denied admission, excluded, deported, and removed from the United States at or near Alexandria, Louisiana on or about August 8, 2018 and not having obtained the express consent of the Attorney General to reapply for admission thereto.

This criminal complaint is based on these facts:

See Attached Affidavit

☒ Continued on the attached sheet.

Complainant's signature

Deportation Officer Piotr Swierk

Printed name and title

Sworn to before me and signed in my presence.

Date:

6/14/2022

Judge's signature

City and state:

Cincinnati, Ohio

Karen L. Litkovitz United States Magistrate Judge

Printed name and title

A F F I D A V I T

I, Piotr Swierk, being duly sworn, do hereby depose and say:

1. I am a Deportation Officer ("DO") with the United States Department of Homeland Security ("DHS"), U.S. Immigration and Customs Enforcement ("ICE"). I have been a DO with ICE, formerly known as the Immigration and Naturalization Service ("INS"), since September 2015. Prior to working as a DO for ICE, I worked as an Immigration Enforcement Agent ("IEA") with ICE, from July 2011 to September 2015. I am currently assigned to the Cincinnati Enforcement and Removal Operations Unit.

2. This affidavit is made in support of a criminal complaint and arrest warrant for Sergio PORTILLO ESPINOZA ("PORTILLO ESPINOZA"), charging him with violating Title 8, United States Code, Sections 1326(a)(1) and (a)(2): Illegal Alien Found in the United States Following Deportation. The facts set forth in this affidavit are based upon my personal observations, my training and experience, and information obtained from other law enforcement agents and witnesses. This affidavit is intended to show that there is probable cause for the requested complaint and arrest warrant and does not purport to set forth all of my knowledge of, or investigation into, this matter.

3. On June 7, 2022, Cincinnati ICE officers encountered PORTILLO ESPINOZA during a traffic stop, while targeting him near 4622 Wyndtree Dr. West Chester, OH. He was taken into custody and transported to the Cincinnati ICE office for processing.

4. On June 7, 2022, I reviewed ICE computer indices for DHS A-File 077-300-542, which is maintained for the subject alien "Sergio PORTILLO ESPINOZA." The computer indices contain, among other things, the following information:

a. Photographs of the alien subject to whom DHS A-File 077-300-542 corresponds.

b. A copy of an executed Warrant of Removal/Deportation (Form I-205) indicating that PORTILLO ESPINOZA was officially removed/deported from the United States on or about September 5, 2013. I know from my training and experience that a Warrant of Removal/Deportation is executed each time a subject alien is removed/deported from the United States by ICE (and its predecessor agency, INS) and usually contains the subject's photograph, signature, and fingerprint. The executed Warrant of Removal/Deportation in PORTILLO ESPINOZA's A-File contains his photograph, signature, and fingerprint.

c. A copy of an executed Warrant of Removal/Deportation (Form I-205) indicating that PORTILLO ESPINOZA was officially removed/deported from the United States on or about August 8, 2018 from Alexandria, Louisiana. The executed Warrant of Removal/Deportation in PORTILLO ESPINOZA's A-File contains his photograph, signature, and fingerprint.

d. Various documents, in addition to the Warrants of Removal/Deportation, indicating that PORTILLO ESPINOZA is a native and citizen of Guatemala. These documents include: (i) a Summary Order of the Immigration Judge dated November 5, 2002, granting PORTILLO ESPINOZA, a voluntary departure to Guatemala; and (ii) his Guatemalan ID card, which was in his wallet.

5. On June 7, 2022, I reviewed the printouts of ICE computer indices for PORTILLO ESPINOZA. Based on my training and experience, I know that the ICE computer indices track and document each time an alien is deported from the United States by ICE (or INS) or is granted permission to enter or re-enter the United States. The ICE computer indices confirmed that PORTILLO ESPINOZA had been removed and deported on the dates indicated on the Warrants of Removal/Deportation found in PORTILLO ESPINOZA's DHS A-File. The ICE computer indices further indicated that PORTILLO ESPINOZA had not applied for or obtained permission from the Attorney General of the United

States or his designated successor, the Secretary of Homeland Security, to re-enter the United States legally since PORTILLO ESPINOZA had last been deported.

6. Based on my review of PORTILLO ESPINOZA's case information, I determined that ICE computer indices does not contain any record of him ever applying for, or receiving permission from, the Attorney General of the United States or his designated successor, the Secretary of Homeland Security, to legally re-enter the United States. Based on my training and experience, I know that such documentation is required to re-enter the United States legally after deportation, and that if such documentation existed, it would ordinarily be found in PORTILLO ESPINOZA's case information.

7. Based on the foregoing facts, there is probable cause to believe that PORTILLO ESPINOZA has violated Title 8, United States Code, Sections 1326(a)(1) and (a)(2): Illegal Alien Found in the United States Following Deportation.



Piotr Swierk  
Deportation Officer- ICE

Subscribed and sworn to before me on this 14 day of June, 2022.



HONORABLE Karen L. Litkovic  
UNITED STATES MAGISTRATE JUDGE